

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1001 be amended to read as follows:

1       Page 59, between lines 39 and 40, begin a new paragraph and insert:  
2       "SECTION 36. IC 6-1.1-20.6 IS ADDED TO THE INDIANA CODE  
3       AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
4       PASSAGE]:

5       **Chapter 20.6. Farmland Credit**

6       **Sec. 1. This chapter applies to an area of land that meets all the**  
7       **following criteria:**

8               (1) Consists of one (1) or more contiguous tracts in the same  
9               county, disregarding any intervening public ways.

10              (2) Includes agricultural land.

11              (3) Contains total farm acreage of at least ten (10) acres.

12              (4) Is at least fifty percent (50%) devoted to farm production  
13              activities on a regular, substantial, and continuing basis  
14              during the year immediately preceding an assessment date.

15              (5) Is actively farmed during the year immediately preceding  
16              an assessment date by eligible individuals.

17       **Sec. 2. As used in this chapter, "actively farm" means the**  
18       **following:**

19              (1) Personal participation on a regular, substantial, and  
20              continuing basis, on land that is not leased to another person,  
21              in any of the following:

22                      (A) Inspecting the farm production activities of the farm  
23                      operation periodically, furnishing at least fifty percent  
24                      (50%) of the value of the tools, and paying at least fifty  
25                      percent (50%) of the direct cost of production.

26                      (B) Regularly and frequently making or taking an  
27                      important part in making management decisions  
28                      substantially contributing to or affecting the success of  
29                      the farm production activities.

1           (C) Performing physical work that significantly  
2           contributes to the farm production activities.

3           (2) Leasing the land to another person if the individuals who  
4           engaged in the activities described in subdivision (1) on the  
5           leased land are eligible individuals described in section 6(c)  
6           of this chapter.

7           Sec. 3. As used in this chapter, "agricultural land" means land  
8           assessed as agricultural land under IC 6-1.1-4-13.

9           Sec. 4. As used in this chapter, "application" refers to an  
10          application under this chapter.

11          Sec. 5. As used in this chapter, "eligible farm" refers to land  
12          described in section 1 of this chapter.

13          Sec. 6. (a) As used in this chapter, "eligible individuals" means  
14          any combination of individuals described in subsection (b) or (c).

15          (b) The following owners are eligible individuals:

16           (1) An individual who owns at least a fifty-one percent (51%)  
17           ownership interest in land that is the subject of an  
18           application.

19           (2) Related individuals who together:

20           (A) own at least a fifty-one percent (51%) ownership  
21           interest in the land that is the subject of an application; or

22           (B) have at least fifty-one percent (51%) of the ownership  
23           and control rights for an entity that has a one hundred  
24           percent (100%) ownership interest in the land that is the  
25           subject of an application;

26           or will qualify under clause (A) or (B) after any tangible or  
27           intangible interest of a deceased related individual is  
28           distributed from the deceased related individual's estate.

29          (c) For purposes of leased agricultural land, the following are  
30          eligible individuals:

31           (1) An individual who has at least a fifty-one percent (51%)  
32           contract interest in a lease of land that is the subject of an  
33           application; or

34           (2) related individuals who together:

35           (A) have at least a fifty-one percent (51%) contract  
36           interest in the lease of land that is the subject of an  
37           application; or

38           (B) have at least fifty-one percent (51%) of the ownership  
39           and control rights for an entity that has a one hundred  
40           percent (100%) contract interest in a lease of land that is  
41           the subject of an application.

42          Sec. 7. As used in this chapter, "farm production activities"  
43          means any combination of the following:

44           (1) Production of crops, fruits, or timber.

1           (2) Raising livestock.

2           (3) If the land is tillable land, participation in a federal set  
3           aside program of the United States Department of  
4           Agriculture that withdraws land from production.

5           (4) If the land is tillable land, participation in a regular  
6           practice of allowing land to be out of production for the  
7           purpose of restoring nutrients to the soil or reversing the  
8           effects of overgrazing.

9           Sec. 8. As used in this chapter, "farmland credit" refers to a  
10          credit granted under this chapter.

11          Sec. 9. As used in this chapter, "maximum eligible acreage"  
12          means two hundred fifty (250) acres.

13          Sec. 10. As used in this chapter, "related individuals" means  
14          individuals who are related to each other as:

15           (1) spouse;

16           (2) child;

17           (3) stepchild;

18           (4) grandchild;

19           (5) great grandchild;

20           (6) parent;

21           (7) grandparent;

22           (8) great grandparent;

23           (9) brother;

24           (10) sister;

25           (11) uncle;

26           (12) aunt;

27           (13) niece;

28           (14) nephew; or

29           (15) spouse of an individual described in subdivisions (1)  
30          through (14).

31          Sec. 11. As used in this chapter, "tax liability" has the meaning  
32          set forth in IC 6-1.1-21-5.

33          Sec. 12. As used in this chapter, "tillable land" means tillable  
34          land as determined under the rules of the department of local  
35          government finance.

36          Sec. 13. As used in this chapter, "total farm acreage" means  
37          total farm acreage as determined under this rules adopted by the  
38          department of local government finance for the assessment of  
39          agricultural land.

40          Sec 14. The owners of an eligible tract are entitled to a  
41          farmland credit against the tax liability imposed on an eligible  
42          farm.

43          Sec. 15. The amount of the farmland credit is equal to the  
44          amount determined under STEP SIX of the following formula:

**STEP ONE: Determine the assessed valuation of the total farm acreage in the eligible farm.**

**STEP TWO: Divide the STEP ONE amount by the total farm acreage in the eligible farm.**

**STEP THREE: Multiply the STEP TWO amount by the lesser of the following:**

(A) The total farm acreage in the eligible farm.

(B) The maximum eligible acreage.

**STEP FOUR: Determine the statewide farmland credit amount certified under section 26 of this chapter.**

**STEP FIVE: Multiply the STEP THREE amount by the STEP FOUR amount.**

**STEP SIX: Determine the lesser of the following:**

(A) The owner's tax liability for the eligible farm.

(B) The STEP FIVE amount.

**Sec. 16. The county auditor shall apply the farmland credit to the tracts in an eligible farm in the manner prescribed by the department of local government finance.**

**Sec. 17. An eligible farm that would otherwise qualify for a farmland credit under this chapter is ineligible if:**

(1) any owner is an owner of another eligible farm that is granted a farmland credit under this chapter; or

(2) any shareholder, partner, member, or beneficiary of an owner is:

(A) an owner; or

(B) a shareholder, partner, member, or beneficiary of an entity that is an owner;

**of any other eligible farm that is granted a farmland credit under this chapter.**

**Sec. 18. The owners of an eligible farm, or an owner acting as the agent of all of the owners of an eligible farm, that desire to claim the farmland credit provided by this chapter must file a certified application, under penalty of perjury, on forms and in the manner prescribed by the department of local government finance, with the county auditor of the county in which the eligible farm is located.**

**Sec. 19. The application must include the following information:**

(1) The parcel numbers or key numbers for the eligible farm.

(2) The name of the townships in which the eligible farm is located.

(3) The total farm acreage in the eligible farm.

(4) The names of the owners of the eligible farm.

(5) The names of each shareholder, partner, member, or beneficiary of any entity that is an owner of the eligible

1        **farm.**

2        **(6) Whether:**

3            **(A) an owner;**

4            **(B) a shareholder, partner, member, or beneficiary of the**  
5            **owner; or**

6            **(C) any entity in which a shareholder, partner, member,**  
7            **or beneficiary of the owner is a shareholder, partner,**  
8            **member, or beneficiary;**

9        **has applied for or been granted a farmland credit for another**  
10       **eligible farm.**

11       **(7) Any other information required by the department of**  
12       **local government finance.**

13       **Sec. 20. A statement filed before May 11 in a year:**

14           **(1) first applies to taxes first due and payable in the**  
15           **immediately succeeding year; and**

16           **(2) unless the land that is the subject of the farmland credit**  
17           **ceases to qualify for the farmland credit, each year**  
18           **thereafter.**

19       **Sec. 21. The county auditor shall approve farmland credits for**  
20       **eligible farms that qualify for a farmland credit under this**  
21       **chapter.**

22       **Sec. 22. As soon as practicable after an application is approved,**  
23       **the county auditor shall submit to the department of local**  
24       **government, on the form required by the department of local**  
25       **government, the information concerning an application that is**  
26       **prescribed by the department of local government finance.**

27       **Sec. 23. The department of local government finance shall**  
28       **establish a program to assist county auditors in determining**  
29       **whether eligible farms are disqualified under section 17 of this**  
30       **chapter from receiving a farmland credit.**

31       **Sec. 24. If:**

32           **(1) land ceases in any part to qualify for a farmland credit**  
33           **under this chapter;**

34           **(2) there is a change in:**

35            **(A) the ownership of the land that is the subject of a**  
36            **farmland credit; or**

37            **(B) the ownership of an entity that is an owner of the land**  
38            **that is the subject of a farmland credit; or**

39           **(3) ownership of an individual who is receiving the farmland**  
40           **credit provided by this chapter changes the use of the**  
41           **individual's real property or structures, buildings, and**  
42           **improvements;**

43       **the owners, after the change, shall notify the county auditor of**  
44       **the county in which the eligible farm is located of the changes, on**

the form prescribed by the department of local government finance, not more than sixty (60) days after the date of the change. If the notice is not filed as required by this section, the owners of the land that is the subject of the farmland credit are liable for the amount of any farmland credit that is applied to the tax liability imposed on the land after the change.

**Sec. 25.** Before April 1 of each year containing an assessment date, the county auditor of each county shall certify to the department of local government finance the amount of the assessed valuation on the assessment date that qualifies for the farmland credit.

**Sec. 26.** Not later than August 1 of each year containing an assessment date, the department of local government finance shall certify the statewide farmland credit amount determined under STEP TWO of the following formula that will apply to property taxes imposed for the assessment date:

**STEP ONE:** Determine the sum of the assessed valuation certified under section 27 of this chapter, as adjusted (if necessary) by the department of local government finance to conform with the requirements of this chapter.

**STEP TWO:** Divide seventy million dollars (\$70,000,000) by the STEP ONE amount.

**Sec. 27.** Before February 1 of each year, a county auditor shall certify to the department of local government finance the amount of farmland credits allowed in the county for tax liability first due and payable in the year.

**SECTION 37.** IC 6-1.1-20.9-2, AS AMENDED BY P.L.192-2002(ss), SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) **Subject to IC 6-1.1-21-5**, the amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21;

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 and thereafter	20%

However, the property tax replacement fund board established under IC 6-1.1-21-10, in its sole discretion, may increase the percentage of the credit provided in the schedule for any year, if the board feels that the property tax replacement fund contains enough money for the resulting increased distribution. If the board increases the percentage of the credit provided in the schedule for any year, the percentage of the credit for the immediately following year is the percentage provided in the schedule for that particular year, unless as provided in this subsection the board in its discretion increases the percentage of the credit provided in the schedule for that particular year. However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

- (1) an individual uses the residence as the individual's principal place of residence;
- (2) the residence is located in Indiana;
- (3) the individual has a beneficial interest in the taxpayer;
- (4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and
- (5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that

1 dwelling."

2 Page 64, between lines 14 and 15, begin a new paragraph and insert:

3 "SECTION 39. IC 6-1.1-21-3, AS AMENDED BY  
4 P.L.192-2002(ss), SECTION 40, IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The  
6 department, with the assistance of the auditor of state and the  
7 department of local government finance, shall determine an amount  
8 equal to the eligible property tax replacement amount, which is the  
9 estimated property tax replacement.

10 (b) The department of local government finance shall certify to the  
11 department the amount of:

12 **(1) farmland credits provided under IC 6-1.1-20.6 that are**  
13 **allowed by the county for the particular calendar year; and**

14 **(2) homestead credits provided under IC 6-1.1-20.9 which are**  
15 **allowed by the county for the particular calendar year.**

16 (c) If there are one (1) or more taxing districts in the county that  
17 contain all or part of an economic development district that meets the  
18 requirements of section 5.5 of this chapter, the department of local  
19 government finance shall estimate an additional distribution for the  
20 county in the same report required under subsection (a). This additional  
21 distribution equals the sum of the amounts determined under the  
22 following STEPS for all taxing districts in the county that contain all or  
23 part of an economic development district:

24 STEP ONE: Estimate that part of the sum of the amounts under  
25 section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable  
26 to the taxing district.

27 STEP TWO: Divide:

28 (A) that part of the estimated property tax replacement amount  
29 attributable to the taxing district; by

30 (B) the STEP ONE sum.

31 STEP THREE: Multiply:

32 (A) the STEP TWO quotient; times

33 (B) the taxes levied in the taxing district that are allocated to a  
34 special fund under IC 6-1.1-39-5.

35 (d) The sum of the amounts determined under subsections (a)  
36 through (c) is the particular county's estimated distribution for the  
37 calendar year.

38 SECTION 40. IC 6-1.1-21-4, AS AMENDED BY P.L.245-2003,  
39 SECTION 19, AND AS AMENDED BY P.L.264-2003, SECTION 12,  
40 IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
41 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department  
42 shall allocate from the property tax replacement fund an amount equal  
43 to the sum of:

44 (1) each county's total eligible property tax replacement amount  
45 for that year; plus

46 (2) the total amount of homestead tax credits that are provided



under IC 6-1.1-20.9 and allowed by each county for that year;  
plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5; **plus**

**(4) the total amount of farmland credits that are provided under IC 6-1.1-20.6 and allowed by each county for that year.**

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional

1 information as the department may require.

2 (d) All distributions provided for in this section shall be made on  
 3 warrants issued by the auditor of state drawn on the treasurer of state.  
 4 If the amounts allocated by the department from the property tax  
 5 replacement fund exceed in the aggregate the balance of money in the  
 6 fund, then the amount of the deficiency shall be transferred from the  
 7 state general fund to the property tax replacement fund, and the auditor  
 8 of state shall issue a warrant to the treasurer of state ordering the  
 9 payment of that amount. However, any amount transferred under this  
 10 section from the general fund to the property tax replacement fund  
 11 shall, as soon as funds are available in the property tax replacement  
 12 fund, be retransferred from the property tax replacement fund to the  
 13 state general fund, and the auditor of state shall issue a warrant to the  
 14 treasurer of state ordering the replacement of that amount.

15 (e) Except as provided in subsection (i), the department shall not  
 16 distribute under subsection (b) and section 10 of this chapter the money  
 17 attributable to the county's property reassessment fund if:

18 (1) by the date the distribution is scheduled to be made, ~~(1)~~ the  
 19 county auditor has not sent a certified statement required to be  
 20 sent by that date under IC 6-1.1-17-1 to the department of local  
 21 government finance; ~~or~~

22 (2) *by the deadline under IC 36-2-9-20, the county auditor has not*  
 23 *transmitted data as required under that section; or*

24 ~~(2)~~ **(3) the county assessor has not forwarded to the department**  
 25 **of local government finance the duplicate copies of all**  
 26 **approved exemption applications required to be forwarded by that**  
 27 **date under IC 6-1.1-11-8(a).**

28 (f) Except as provided in subsection (i), if the elected township  
 29 assessors in the county, the elected township assessors and the county  
 30 assessor, or the county assessor has not transmitted to the department  
 31 of local government finance by October 1 of the year in which the  
 32 distribution is scheduled to be made the data for all townships in the  
 33 county required to be transmitted under IC 6-1.1-4-25(b), the state  
 34 board or the department shall not distribute under subsection (b) and  
 35 section 10 of this chapter a part of the money attributable to the  
 36 county's property reassessment fund. The portion not distributed is the  
 37 amount that bears the same proportion to the total potential distribution  
 38 as the number of townships in the county for which data was not  
 39 transmitted by ~~August 1~~ *October 1* as described in this section bears to  
 40 the total number of townships in the county.

41 (g) Money not distributed ~~under subsection (e)~~ *for the reasons stated*  
 42 *in subsection (e)(1) and (e)(2)* shall be distributed to the county when:

43 (1) the county auditor sends to the department of local  
 44 government finance the certified statement required to be sent  
 45 under IC 6-1.1-17-1; and

46 (2) *the county assessor forwards to the department of local*

*government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);*

with respect to which the failure to send *or forward* resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; *or*

(B) a county assessor to forward copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances."

Page 65, between lines 18 and 19, begin a new paragraph and insert:

**"(e) If in any year the sum of:**

**(1) the amount of the credit granted under this section; and**

**(2) the amount of the homestead credit granted under IC 6-1.1-20.9-2;**

**against the tax liability on a homestead exceeds two thousand dollars (\$2,000), the aggregate total of the credits is reduced to two thousand dollars (\$2,000). If the tax due is paid in installments, the reduction in the credits shall be applied to each installment in proportion to the relative amount of each installment."**

Page 124, between lines 20 and 21, begin a new paragraph and insert:

**"SECTION 93. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 and IC 6-1.1-20.9, as added by this act, and P.L.224-2003, SECTION 1 apply throughout this SECTION.**

**(b) IC 6-1.1-20.6, as added by this act, and IC 6-1.1-20.9-2, IC 6-1.1-21-3, IC 6-1.1-21-4, and IC 6-1.1-21-5(e), all as amended by this act, apply only to property taxes first due and payable after December 31, 2004.**

**(c) The department of local government finance shall prescribe application forms and make them available to county auditors and the public as soon as practicable after the passage of this act.**

(d) There is appropriated to the property tax replacement board (IC 6-1.1-21) twenty-three million three hundred thirty-three thousand three hundred fifty dollars (\$23,333,350) from the property tax replacement fund for its use for total operating expense to distribute farmland credit replacement amounts for farmland credits applied against tax liability imposed for property taxes first due and payable in 2005, for the state fiscal year beginning July 1, 2004, and ending June 30, 2005. Adjustments may be made to this appropriation under IC 6-1.1-21-4, as amended by this act. The appropriation made by this subsection is supplemental to all other appropriations made to the property tax replacement board in P.L.224-2003, SECTION 10. For purposes of applying IC 6-1.1-20.6-26, as added by this act, to farmland credits for property taxes first due and payable in calendar year 2005, the amount appropriated for farmstead credits shall be treated as seventy million dollars (\$70,000,000). The amount appropriated by this SECTION constitutes the amount necessary to pay the first two (2) distributions required under IC 6-1.1-21-10 for property taxes first due and payable in calendar year 2005. The general assembly will appropriate the remainder necessary for calendar year 2005 as part of the budget bill applicable to the next biennium beginning July 1, 2005.

(e) The department of local government finance may adopt temporary rules in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules to implement IC 6-1.1-20.6, as added by this act, and this SECTION. A temporary rule adopted under this SECTION expires on the earlier of the following:

(1) The date that another temporary rule is adopted under this SECTION or a permanent rule is adopted under IC 4-22-2 to supercede a previously adopted temporary rule.

(2) July 1, 2005."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed December 2, 2003.)

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Senator HUME

